

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed March 30, 2005. Through this response, claims 1 and 2 have been amended to correct a typographical error (adding a missing period at the end of claim 1) and to clarify the disclosure. Claims 3-18 have been canceled without prejudice, waiver or disclaimer. Claims 38-40 have been added. Claims 1, 2 and 19-40 are pending in the present Application. In view of the following remarks, reconsideration and allowance of the Application, and presently pending claims, are respectfully requested.

I. Restriction

Applicant acknowledges the Examiner's withdrawal from consideration claims 3-18, and thus in the interest of expediting issuance of claims, have canceled claims 3-18 without prejudice, waiver or disclaimer. Applicant reserves the right to present these canceled claims, or variants thereof, in continuing applications to be filed subsequently.

II. Allowable Subject Matter

Applicant greatly appreciates the Examiner's statement in the Office Action in which claim 1 and claims 19-37 have been indicated as allowable.

III. Response to Rejections under 35 U.S.C. § 102(b)

A. Statement of the Rejection

Claim 2 has been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 5,157,395 to Del Signore *et al.*, hereinafter referred to as *Del Signore*, in view of U.S. Patent No. 5,579,247 to Kerth *et al.*, hereinafter referred to as *Kerth*. Applicant respectfully traverses this rejection.

B. The Combination of *Del Signore* and *Kerth* Does Not Disclose, Teach or Suggest All Elements of Claim 2.

It is well established at law that, for a proper rejection of a claim under 35 U.S.C. § 103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach or suggest either implicitly or explicitly all elements,

features or steps of the claim at issue. See e.g., *In re Dow Chemical*, 5 U.S.P.Q.2d 1529, (Fed. Cir. 1988), and *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

The rejection of claim 2 should be removed because the combination of *Del Signore* and *Kerth* does not disclose, teach or suggest reducing an initial sampling rate of a digital signal to a reduced sampling rate. Independent claim 2, as amended, recites:

2. A system, comprising:
 - a material metering machine comprising a decimation element, **the decimation element configured to reduce an initial sampling rate of a digital signal to a reduced sampling rate;** and
 - a filter bank, the filter bank comprising:
 - an input node adapted to receive the digital signal from the decimation element, the digital signal having noise from the material metering machine; and
 - selectable filters, each selectable filter having a sub-hertz 3-dB cutoff frequency, each filter being configured to reduce the noise.

(Emphasis Added)

Independent claim 2 is allowable over *Del Signore* in view of *Kerth* for at least the reason that neither discloses, teaches or suggests the features that are highlighted in independent claim 2 above. More specifically, the combination of *Del Signore* and *Kerth* does not disclose, teach or suggest reducing an initial sampling rate of a digital signal to a reduced sampling rate.

It is acknowledged in the Office Action that *Del Signore* “does not specifically disclose a system that comprises a material metering machine which comprises a decimation element.” *Office Action*, p. 3. Applicant acknowledges this characterization of *Del Signore*. However, it is further asserted in the Office Action that *Kerth* “discloses a system (fig. 1) that comprises a material metering machine (12) which comprises a decimation element.” *Office Action*, p. 3. Specifically, and regarding the decimation element, *Kerth* recites a “time multiplex digital filter” that is “a time multiplex decimation filter which has characteristics shown in FIG. 4”. However, FIG. 4 does not address a reduced sampling rate of a digital signal. Indeed, *Kerth* does not appear to address the reduction of a sampling rate of a digital signal at all. Applicant respectfully submits that *Kerth* does not disclose reducing an initial sampling rate of a digital signal to a reduced sampling rate.

For at least the reasons cited above, Applicant respectfully submits that the rejection of claim 2 should be withdrawn since the combination of *Del Signore* and *Kerth* fails to disclose, teach or suggest reducing an initial sampling rate of a digital signal to a reduced sampling rate.

IV. Newly Added Claims

As indicated above, claims 38-40 have been added into the application through this response. Applicant respectfully submits that these new claims represent a disclosure that is novel and unobvious in view of the prior art of record and, therefore, respectfully request that these new claims be held allowable. Further, it is respectfully asserted that no new matter has been added.

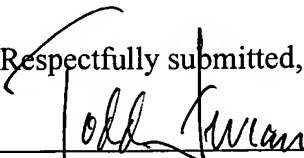
V. Prior Art Made of Record

The prior art made of record has been considered, but is not believed to affect the patentability of the presently pending claims.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1, 2 and 19-40, are in condition for allowance. Favorable consideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,



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